

# HOUSE BILL No. 1256

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-14; IC 31-17.

**Synopsis:** Electronic communication time. Provides that a court: (1) may grant a custodial parent, a noncustodial parent, or a grandparent electronic communication time with a child if electronic equipment is reasonably available; and (2) may not use the availability of electronic communication time as a factor to justify or support relocation of a child. Provides that electronic communication time: (1) must supplement and not be a replacement or substitute for a custodial parent's custody or a noncustodial parent's parenting time with the child; and (2) may not be a factor in the calculation of child support.

**Effective:** July 1, 2009.

**Thompson**

January 13, 2009, read first time and referred to Committee on Family, Children and Human Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1256

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 31-9-2-18 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. "Child support  
3       guidelines", for purposes of IC 31-14-11-8, ~~and~~ IC 31-16-8-1, **and**  
4       **IC 31-17-5.5**, refers to the guidelines adopted by the Indiana supreme  
5       court.

6       SECTION 2. IC 31-9-2-30 IS AMENDED TO READ AS  
7       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. "Custodial parent",  
8       for purposes of IC 31-14-13-8, IC 31-14-15, IC 31-16-12.5,  
9       IC 31-17-2-22, ~~and~~ IC 31-17-4, **and IC 31-17-5.5**, means the parent  
10      who has been awarded physical custody of a child by a court.

11      SECTION 3. IC 31-9-2-43.2 IS ADDED TO THE INDIANA CODE  
12      AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13      1, 2009]: Sec. 43.2. "Electronic communication time" means time  
14      set aside by a court order for a parent and child or a grandparent  
15      and a child to communicate using electronic communication tools  
16      that include:

17      (1) a telephone;

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- (2) electronic mail;
- (3) instant messaging;
- (4) video conferencing;
- (5) other wire or wireless technologies through the Internet;
- or
- (6) another medium of communication.

SECTION 4. IC 31-9-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 83. "Noncustodial parent", for purposes of IC 31-14-13-10, IC 31-14-15, ~~and~~ IC 31-17-4, **and IC 31-17-5.5**, means the parent who is not the custodial parent.

SECTION 5. IC 31-9-2-107.7, AS ADDED BY P.L.50-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 107.7. "Relocation", for purposes of IC 31-17-2.2 **and IC 31-17-5.5**, means a change in the primary residence of an individual for a period of at least sixty (60) days.

SECTION 6. IC 31-14-13-5, AS AMENDED BY P.L.146-2008, SECTION 557, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The court may order the probation department or any licensed child placing agency to supervise the placement to ensure that the custodial **time, or** parenting time, **or electronic communication time** terms of the decree are carried out if:

- (1) both parents or the child request supervision; or
- (2) the court finds that without supervision the child's physical health and well-being would be endangered or the child's emotional development would be significantly impaired.

SECTION 7. IC 31-14-14-5, AS AMENDED BY P.L.68-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies if a court finds that a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child.

(b) There is created a rebuttable presumption that the court shall order that the noncustodial parent's parenting time **and electronic communication time granted under IC 31-17-5.5** with the child must be supervised:

- (1) for at least one (1) year and not more than two (2) years immediately following the crime involving domestic or family violence; or
- (2) until the child becomes emancipated;

whichever occurs first.

SECTION 8. IC 31-17-2-8.3, AS AMENDED BY P.L.68-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 8.3. (a) This section applies if a court finds that a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child.

(b) There is created a rebuttable presumption that the court shall order that the noncustodial parent's parenting time **and electronic communication time granted under IC 31-17-5.5** with the child must be supervised:

- (1) for at least one (1) year and not more than two (2) years immediately following the crime involving domestic or family violence; or
- (2) until the child becomes emancipated; whichever occurs first.

SECTION 9. IC 31-17-2-18, AS AMENDED BY P.L.146-2008, SECTION 559, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. If both parents or all contestants agree to the order or if the court finds that, in the absence of the order, the child's physical health might be endangered or the child's emotional development significantly impaired, the court may order:

- (1) the court social service agency;
  - (2) the staff of the juvenile court;
  - (3) the local probation department; or
  - (4) a private agency employed by the court for that purpose;
- to exercise continuing supervision over the case to assure that the custodial **time, or** parenting time, **or electronic communication time** terms of the decree are carried out.

SECTION 10. IC 31-17-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A child's grandparent may seek visitation rights **and electronic communication time under IC 31-17-5.5** if:

- (1) the child's parent is deceased;
- (2) the marriage of the child's parents has been dissolved in Indiana; or
- (3) subject to subsection (b), the child was born out of wedlock.

(b) A court may not grant visitation rights **or electronic communication time under IC 31-17-5.5** to a paternal grandparent of a child who is born out of wedlock under subsection (a)(3) if the child's father has not established paternity in relation to the child.

SECTION 11. IC 31-17-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

#### **Chapter 5.5. Electronic Communication Time**

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1       **Sec. 1. (a) A court may grant electronic communication time to:**

2           (1) a custodial parent during the periods that a child is not in  
3           the custodial parent's custody;

4           (2) a noncustodial parent during the periods the noncustodial  
5           parent is not exercising parenting time with the child; and

6           (3) a grandparent who is entitled to seek visitation rights  
7           under IC 31-17-5-1;

8       **if the court determines that granting electronic communication**  
9       **time is in the best interests of the child.**

10       **(b) A court may grant electronic communication time only if**  
11       **electronic equipment is reasonably available.**

12       **Sec. 2. If a court grants electronic communication time to a**  
13       **custodial or noncustodial parent under section 1 of this chapter,**  
14       **the electronic communication time:**

15           (1) must supplement a custodial parent's custody or a  
16           noncustodial parent's parenting time with the child; and

17           (2) may not be granted as a replacement or a substitute for a  
18           custodial parent's custody or a noncustodial parent's  
19           parenting time with the child.

20       **Sec. 3. Electronic communication time granted under section 1**  
21       **of this chapter:**

22           (1) must be conducted at reasonable hours; and

23           (2) may not be used as a factor in the calculation of child  
24           support under the child support guidelines.

25       **Sec. 4. The court may not use the availability of electronic**  
26       **communication time as a factor:**

27           (1) to justify; or

28           (2) to support;

29       **a relocation of a child under IC 31-17-2.2.**

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